





had lapsed into a diabetic coma.


Plaintiff's claim is that the Defendants were deliberately indifferent to his medical condition and violated his Eighth Amendment right to adequate medical care. To state a claim for relief under § 1983, the Plaintiff alleges plausible facts that the Defendants, while acting under color of state law, deprived him of some right or privilege secured by the Constitution or laws of the United States. Parratt v. Taylor, 451 U.S. 527, 543-44 (1981). The Eighth Amendment guarantees a prisoner the right to medical care and this right has been violated when prison officials are deliberately indifferent to a prisoner's serious medical needs. Estelle v. Gamble, 429 U.S. 97 (1976).

Here, Plaintiff's allegations are that a nurse erroneously treated his discomfort and as a result, Plaintiff had to be taken to a local hospital. This dispute is over the adequacy of the care provided to Plaintiff. When a prisoner has received some medical attention and his claim challenges the adequacy of the care provided, federal courts are generally reluctant to second guess medical judgments and constitutionalize claims which sound in state tort law. Hill v. Jones, 211 F.3d 1269 (6<sup>th</sup> Cir.2000). A medical malpractice claim does not become a constitutional tort merely because the victim is a prisoner. Estelle, 429 U.S. 105-106. Thus, the Court concludes that Plaintiff fails to state an Eighth Amendment claim. Comstock v. McCrary, 273 F.3d 693, 703 (6<sup>th</sup> Cir.2001).

Absent a violation of federal law, this action must be dismissed for failure to state a claim upon which relief can be granted, but dismissal will be without prejudice to Plaintiff's state law claims. 28 U.S.C. § 1915(e)(2).

An appropriate Order is filed herewith.

ENTERED this the 13<sup>th</sup> day of August, 2014.

  
WILLIAM C. HAYNES, JR.  
Chief Judge  
United States District Court